IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1491 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 29/07/2003 in WP NO : 13940 OF 2003 on the file of the High Court.)

Between:

Armed Forces Officers Co-operative Housing Society Ltd, (Regd.T.A. No. 91), rep. by its Honorary Secretary, Lt. Col,. Retd.N.R. Venugopal, Sainikpuri, Secunderabad.

..... APPELLANT

AND

1 M. Ramakrishna Reddy, S/o M. Chandra Reddy,
R/o H.No. 1-29-58, Plot No.13, Bhavana Colony,
Bowenpally, Secunderabad.
2 Government of Andhra Pradesh, Rep. by its Principal Secretary,
Municipal Administration & Urban Development Department, Secretariat, Hyderabad.
3 The Commissioner & Director of Municipal Administration, 4th Floor, M.C.H. Complex, Tank Bund

Road, Hyderabad.

4 The Engineer-in-Chief, (PH), Kasana, A.C. Guards, Hyderabad.
5 The Superintending Engineer, Public Health, West Circle, A.C. Guards, Hyderabad.
6 The Commissioner, Kapra Municipality, Kapra, Ranga Reddy District.

.....RESPONDENTS

Counsel for the Appellant : MR.D.LINGA RAO

Counsel for the Respondent No.1: MR. M. Ratna Reddy.

Counsel for the respondent Nos.2 & 3: G.P. for Municipal Admn., & Urban Development.

Counsel for respondent Nos.4 & 5: G.P. for Medical & Health and Family Welfare.

Counsel for respondent No.6: Mr. R. Thimma Reddy, SC for Kapra Municipality.

The Court made the following :

ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1. Appeal is filed by Armed Forces Officers Co-operative Housing Society Limited, which is not party to W.P.No.13940 of 2003. By virtue of the impugned order, direction has been issued to Municipality to handover the site to 1st respondent herein, who is a writ petitioner, for undertaking the work assigned to him under the agreement executed pursuant to tender. Needless to add that site earlier could not be handed over to the writ petitioner – 1st respondent because of the interim order which was operating in an application filed in W.P.No.11660 of 2001.

2 . Earlier W.P.No.11660 of 2001 filed by the Armed Forces Officers Cooperative Housing Society Limited is pending. Society had obtained earlier an interim order not to handover site, but the order was vacated on 18.07.2001 with certain observations and conditions that the construction of the shopping complex by the

Municipality over the land in question shall be subject to result of the said writ petition and if ultimately it is found that Society is entitled to retain some more land, Municipality shall have to make it available from such of the lands which continue to be in the possession of the Municipality. Thus in vacating the interim order subject to said observations, writ petition was directed to be heard expeditiously. Since site was not being handed over by the Municipality, the contractor filed the present writ petition and ultimately order impugned in this appeal was passed.

3. Learned single Judge took notice of all the facts and then directed site to be handed over to the writ petitioner. Learned counsel for the appellant – Society urges that such mandatory direction could not have been issued in a contractual matter. Appellant, which is not a party to writ petition, cannot be permitted to raise such an objection inasmuch as Municipality could have raised such objection which itself is satisfied with the impugned order, and moreover the Court merely passed an order which has the effect of implementing the interim order passed on 18.07.2001 in W.P.No.11660 of 2001.

4. There is no merit in the writ appeal, which is hereby dismissed. However, we make it clear that this order will not come in the way of the appellant in continuing to prosecute its writ petition. No costs.

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DEVINDER GUPTA. C.J.,

C.V. RAMULU. J.,

Dated: 01.11.2004.

VRK.

To

1. Principal Secretary to Govt.,
   Municipal Administration & Urban Development Department, Secretariat, Hyderabad.
2. The Commissioner & Director of Municipal Administration, 4th Floor, M.C.H. Complex, Tank Bund Road, Hyderabad.
3. The Engineer-in-Chief, (PH), Kasana, A.C. Guards, Hyderabad.
4. The Superintending Engineer, Public Health, West Circle, A.C. Guards, Hyderabad.
5. The Commissioner, Kapra Municipality, Kapra, Ranga Reddy District.
6. Two CCs to G.P. for Municipal Admn., & Urban Development, High Court Buildings, Hyderabad (OUT).
7. Two CCs to G.P. for Medical & Health and Family Welfare, High Court Buildings, Hyderabad (OUT).
8. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,
CHIEF JUSTICE
AND
HON'BLE SRI JUSTICE C.V. RAMULU.

W.A.NO. 1491 OF 2004.

(Judgment of the Bench delivered by
Hon'ble The Chief Justice)

Dt: 01.11.2004.